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Letter dated 15 June 2006 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from Bulgaria submitted pursuant to resolution 1624 (2005) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Ellen Margrethe **Løj**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

06-40228 (E) 130706

Annex

Letter dated 1 June 2006 from the Chargé d'affaires a.i. of the Permanent Mission of Bulgaria to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

I have the honour to refer to your letter dated 4 April 2006 in which you requested information on Bulgaria's implementation of the provisions of resolution 1624 (2005).

I have the further honour to convey to you the information requested in paragraph 1.1 of your letter on the measures in force or under consideration aimed at prohibiting or preventing incitement to terrorist acts (see enclosure).

I would like to pledge the continued cooperation of Bulgaria towards the implementation of the mandate of the Security Council Committee established pursuant to resolution 1373 (2001) and to assure you that your efforts and achievements as Chairman of the Committee are closely followed and warmly welcomed by the Bulgarian Government.

(*Signed*) Ivan **Piperkov**
Chargé d'affaires a.i.

Enclosure

Question 1.1

What measures does Bulgaria have in place to prohibit by law and to prevent incitement to commit a terrorist act or acts? What further steps, if any, are under consideration?

1. The Bulgarian Criminal Code contains specific provision (corpus delicti) for the punishment of "incitement to terrorist act/acts".

2. Article 108a, para. 1 of the Criminal Code contains definition of terrorism and provides for punishment of terrorism (see the annex).

Under Art. 320, para. 1 of the Criminal Code a person shall be punished who openly abets to the perpetration of a crime by preaching before many people or by distribution of printed works or in any other similar manner;

Paragraph 2 of Article 320 of the Criminal Code provides that the punishment for open instigation towards perpetration of a crime under Art. 108a, para. 1 (i.e. for instigation towards terrorism) is up to six years of imprisonment. It means that the Bulgarian Criminal law considers the "incitement to terrorism" as a serious offence.

Besides this, Art. 320a of the Criminal Code provides that "a person who threatens to commit a crime under Art. 108a, para 1 ... and where such threat might give rise to justified fear of its perpetration shall be punished by imprisonment for up to two years".

The above-mentioned provisions were introduced in the Criminal Code by the amendments adopted in September 2002.

Under Art. 20, para. 1 from the General Provisions of the Criminal Code the abettor is the one who has deliberately persuaded somebody else to commit a crime and is punished as follows — under Art. 21, para. 2.

Accordingly, the Bulgarian Criminal Code provides for criminalization of the incitement to terrorist act/acts.

Annex

Bulgarian Criminal Code

General Part

Section III.

Implication

Art. 20 (1) Accomplices in a deliberate crime are the perpetrators, the abettors and the accessories.

(2) Perpetrator is the one who participates in the very commitment of the crime.

(3) Abettor is the one who has deliberately persuaded somebody else to commit the crime.

(4) Accessory is the one who has deliberately facilitated the commitment of the crime through advice, explanations, promise to provide assistance after the act, removal of obstacles, providing resources or in any other way.

Art. 21 (1) All accomplices shall be punished by the penalty stipulated for the committed crime, taking into consideration the nature and the degree of their participation.

(2) The abettor and the accessory shall be responsible only for what they have deliberately abetted or helped the perpetrator.

(3) When due to a definite personal quality or relation of the perpetrator the law proclaims the act as a crime responsible for this crime shall also be the abettor and the accessory for whom these circumstances are not present.

(4) The particular circumstances due to which the law excludes, reduces or increases the punishment for some of the accomplices shall not be taken into consideration regarding the rest of the accomplices with respect of whom these circumstances are not present.

Special Part

Chapter One

Crimes against the Republic

Article 108a
(New SG No. 92/2002)

(1) Any person who undertakes to instigate fear and panic among the population, pose threats, force official authority, member of the public or representative of a foreign state or international organization to perform or fail to perform any of their functions, who commits a crime under the provisions of Articles 115, 128, 142, Para. 1, Art. 216, Para. 1, Articles 326, and 330, Para. 1, Articles 333, 334, Para. 1, Art. 337, Para. 1, Art. 339, Para. 1, Art. 340, Para. 1 and 2, Art. 341a, Para. 1-3,

Art. 341b, Para. 1, Articles 344 and 347, Para. 1, Articles 348 and 349, Para. 1 and 3, Art. 350, Para. 1, Art. 352, Para. 1, Art. 354, Para. 1, Art. 356f, Para. 1, Art. 356h, and shall be punished for terrorist acts with imprisonment of five to fifteen years, when if death has been caused, the punishment imposed shall be imprisonment of fifteen to thirty years, life imprisonment or life imprisonment without alternative punishment.

(2) Any person who in any way whatsoever directly or indirectly collect or provide means for the purpose of perpetrating the act under Para. 1, is aware of, or assumes that these means will be used for this purpose, shall be punished by imprisonment of three to fifteen years and a fine shall be imposed upon him/her of up to thirty thousand BGN.

(3) The chattels of crime under Para. 2 shall be seized in favour of the State, or in case they are missing or alienated, their equivalent value shall be ruled.

Article 109

(1) (*Amended, SG No. 99/1989, No. 92/2002*). A person who forms or leads an organized criminal group, which has set itself the aim of committing crimes under this Chapter, shall be punished by deprivation of liberty for up to twelve years, but not more than the punishment provided for the respective crime.

(2) (*Amended, SG No. 92/2002*) A person who is a member of such group shall be punished by deprivation of liberty for up to ten years, but not more than the punishment provided for the respective crime.

(3) (*Amended, SG Nos. 95/1975, 92/2002*) A participant in the group, who voluntarily surrenders himself/herself to the authorities, makes full confession of the facts related to the group in his/her knowledge and thus assist the solving of the crime and the collection of evidence for the crime perpetrated, shall be punished under the provisions of Art. 55.

(4) (*Amended, SG No. 92/2002*) A participant in the group who, of his own accord gives himself up to the authorities and reveals the group before another crime has been committed by it or by him, shall not be punished.

Article 110

(*Amended, SG No. 99/1989, No. 92/2002*) For preparation of a crime under Articles 95, 96, 99, 106, 107 and 108a, the punishment shall be deprivation of liberty for up to six years.

Chapter Ten

Crimes against the public order and peace

Article 320

(1) (*Former text of Art. 320, SG No. 92/2002*) A person who, by preaching before many people, or by distribution of printed works or in any other similar manner openly abets to the perpetration of a crime, shall be punished by deprivation of liberty for up to three years, but not by a more severe punishment than that provided by the crime itself.

(2) (*New, SG No. 92/2002*) The punishment for open instigation towards perpetration of a crime under Art. 108a, Para. 1 shall be imprisonment of up to six years.

Article 320a

(*New, SG No. 41/1985, No. 92/2002*) A person who threatens to commit a crime under Articles 108a, paragraph (1), 330, 333, 334, 340, 341a, 341b, 342, paragraph (3), Articles 344, 349, 350 or 352, paragraph (1), and where such threat might give rise to justified fear of its implementation, shall be punished by deprivation of liberty for up to two years. The court may also rule probation.